

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**

MUR: No. 04-0070

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

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On behalf of the Citizens Clean Elections Commission (“Commission”), the External Investigative Consultant hereby provides the Statement of Reasons showing reason to believe violations of the Citizens Clean Elections Act (“Act”) and Commission rules have occurred.

**I. Procedural Background**

On April 3, 2005, Patrick Meyers (“Complainant”) filed a complaint against David Lujan (“Respondent”), a participating candidate for State Representative, District 15, alleging thirteen violations of the Act by Respondent. Exhibit A. On April 14, 2005, Respondent responded to the complaint and provided supporting documentation for certain expenditures and argument concerning other of the allegations. Exhibit B. Respondent’s campaign finance report for the 2004 election cycle is attached. Exhibit C.

**II. Alleged Violations**

1. Complainant first alleges, that the Respondent conducted a coordinated campaign with other candidates but failed to report either an expenditure for or an in-kind contribution regarding a voter access file purchased by the Kyrsten Sinema campaign. Respondent asserts and the evidence establishes that the coordinated campaign was conducted in the general election but not in the primary election and the voter list in question was not used in the general election. Therefore, no violation of the Act as alleged occurred.

2. Complainant’s allegations in paragraphs 2, 7 and 9 assert that Respondent failed to pay vendors directly for goods and services used by the campaign. Respondent furnished invoices and details to establish that the allegations are without merit. Therefore, no violations of the Act as alleged occurred.

3. Complainant’s allegations in paragraphs 3, 4, 5 6 and 8 (and as a part of 2), by comparing campaign finance reports of Respondent to those of Sinema, suggest violations of requirements that expenditures be reported as incurred. The evidence establishes that Respondent reported these expenditures as incurred and ahead of the Sinema campaign. If fact, several were prepayments required by vendors and the actual amount expended ultimately was less than first reported. Therefore, no violations of the Act as alleged occurred.

4. Finally, Complainant's allegations in paragraphs 10, 11, 12 and 13 identify four expenditures made on November 7, 2004 (after the general election), for (a) graphic design for a magazine ad which was placed October 8, 2004, (b) photography – presumably of pictures used in campaign mailings, (c) other graphic design services, and (d) campaign consultant fees. No violation occurred with respect to the last item; however, with respect to the other three, there is reason to believe the requirements of A.R.S. § 16-941(C)(2) and Commission rule A.A.C. R2-20-109 were not met. Expenditures, as defined in A.R.S. Sec. 16-901(8), must be reported when incurred (see A.R.S. Sec. 16-915). Expenses were incurred when the graphic design services and photography services were rendered. Campaign finance reports software accommodates, and indeed expects, estimates of the amounts of expenditures when the final invoice is not in hand. Candidates routinely make such estimates in the conduct of campaigns in order to abide campaign spending limits specified by the Act.

### **III. Reason to Believe Finding**

Based upon the Complaint, Respondent's response, and the results of the staff study, the External Investigative Consultant recommends the Commission find reason to believe violations of the Act and/or Commission rules occurred, as detailed above, warranting an investigation. However, the violations which occurred involve only a total of \$652.50 in campaign expenditures by a committee that spent a total of \$38,043.32.

If the Commission determines by an affirmative vote of at least three of its members that it has reason to believe a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify Respondent of the finding setting forth: (1) the sections of the statute or rule alleged to have been violated; (2) the alleged factual basis supporting the finding; and (3) an order requiring compliance within fourteen days. During that period, the Respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement. A.R.S. Sec. 16-957(A) and A.A.C. R2-20-208(A).

After the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, the Commission shall conduct an investigation. A.A.C. R2-20-209(A). Upon expiration of the fourteen days, if the Commission finds that the alleged violator remains out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with A.R.S. Sec. 16-942, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. Sec. 16-957(B).

Dated this 17<sup>th</sup> day of August, 2005

By: \_\_\_\_\_  
L. Gene Lemon  
External Investigative Consultant